IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 21212 of 2007(A)

CMA.15/2006 of PRINCIPAL SUB COURT,PARAVUR
OS.20/2006 of MUNSIFF COURT, PERUMBAVOOR

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PETITIONER:

BENNY K PAUL, AGED 43 YEARS,
S/O.POULOSE, KEECHERI HOUSE, MUDAKUZHA KARA,
VENGOOR WEST VILLAGE, PERUMBAVOOR,
ERNAKULAM DISTRICT.

BY ADV. SRI.RAJESH VIJAYAN

RESPONDENTS:

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1. YACOB, S/O.OUSEPH,
KEECHERI HUSE, MUDAKUZHA KARA, VENGOOR WET VILLAGE
PERUMBAVOOR, ERNAKULAM DISTRICT.

2. SHAJI, S/O.YACOB,
KEECHERI HOUSE, MUDAKUZHA KARA,
VENGOOR WEST VILLAGE, PERUMBAVOOR,
ERNAKULAM DISTRICT.

3. BINOY, S/O.YACOB,
KEECHERI HOUSE, MUDAKUZHA KARA,
VENGOOR WEST VILLAGE, PERUMBAVOOR,
ERNAKULAM DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.21212 OF 2007

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Dated this the 10th day of July, 2007

JUDGMENT

I am disposing of this writ petition at the admission stage itself without notice to the other side for the reason that I am satisfied that the order requires interference. Along with the suit, the plaintiff filed a petition for injunction and a Commissioner inspected the property and submitted Exts.C1 and C1(a). The court, on a consideration, found that the plaintiff has proved a prima facie case and granted an order in favour of the plaintiff. The defeated party filed C.M.A.No.15 of 2006 before the Sub Court, N.Paravur. The learned Sub Judge came to the conclusion that the property is not identified and therefore asked the parties to keep the present status as per the Commission report till the disposal of the suit and dismissed the appeal as well. This is an unworkable order. Further, nowhere it is stated that the property is incapable of being identified. Therefore the order suffers from serious infirmity and therefore the same is set aside. It is submitted that presently the case is pending before the newly constituted Sub Court at Perumbavoor. The Sub Court, Perumbavoor is directed to consider and

dispose of C.M.A.No.15 of 2006 afresh after hearing both sides, within a time frame of six weeks from today. The Sub Court is also directed to issue interim directions, if requested for before finally disposing of the matter, as there will a vacuum for a period of six weeks.

M.N.KRISHNAN, JUDGE

Cdp/-